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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,330	04/05/2000	Julie Rae Kowald	169.1658	6705

5514 7590 06/14/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

ONUAKU, CHRISTOPHER O

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/543,330	KOWALD, JULIE RAE	
	Examiner	Art Unit	
	Christopher Onuaku	2621	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 3,4,8,10,14,15,24,25,28,29,38,40 and 41.
Claim(s) rejected: 1,2,5-7,9,12,13,16-20,22,23,27,30-37,39,42-53 and 55-71.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See attached).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 5/17/07 have been fully considered but they are not persuasive.
2. Applicant argues that the examiner reads the presently claimed term of "template with cutting rules" as a "editing list which contains the editing rules for creating the edited output.", and that the examiner reads "cutting rules" as "the editing rules which include, for example, the beginning and end times of each clip". The applicant continues, that as understood, the reference to the "editing list" is a reference to the "edited list", then the output of Ohmori is erroneously equated with the template of the present invention. And that if that understanding of that reference is incorrect, then the "editing list" can at best be the "clip list" which can not define editing or cutting rules, since any such rules are what would be used to act on the list. The list itself can not be the rules, the applicant concludes.

In response, examiner refers the applicant to col.6, lines 18-23 where Ohmori discloses "material length" as duration. This disclosure satisfies the examiner interpretation of the phrase "material length". It is pertinent to point out that applicant's interpretation of the phrase "material length" (e.g., "original raw footage" as argued by the applicant) that fails to agree with Ohmori's definition of phrase "material length" (see below) is wrong and unacceptable.

Furthermore, the term "template with cutting rules" is read by the examiner as the editing list which contains the editing rules for creating the edited output. The examiner

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reads cutting rules as the editing rules which include, for example, the beginning and end times of each clip. In col.11, line 27 to col.12, line 5, Ohmori discloses that an operator can use the edited-list creating part 35 on the main screen 30 with the list of registered clips displayed at the clip information display part 32 on the main screen 30 (Fig.5) to create an edited list. Then Ohmori goes on to disclose how an edited list is created using the list of registered clips (template) displayed at the clip information display part 32 on the main screen 30 of Fig.5.

It is pertinent to point out that what the applicant is claiming is the editing some "raw" footage clips using some desired editing "rules" to produce a desired final edited clip, which is well known to one of ordinary skill in the art, which is what Ohmori discloses. Editing rules would include, for example, how to determine the beginning and end of each clip, which clip(s) to insert or combine with which other clip(s), etc. For example, as stated above, Ohmori clearly discloses in col.11, line 27 to col.12, line 5, that an operator can use the edited-list creating part 35 on the main screen 30 with the list of registered clips (of raw footage) displayed at the clip information display part 32 on the main screen 30 (Fig.5) to create an edited list. Then Ohmori goes on to disclose how an edited list is created using the list of registered clips (template) displayed at the clip information display part 32 on the main screen 30 of Fig.5.

The phrase "template with cutting rules" examiner reads as edited-list creating part and the list of registered clips used to create an edited list, as disclosed by Ohmori.

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Furthermore, applicant argues that Ohmori discloses a manual method of editing that is assisted by a computer interface whereas the the claim cites a "computer-implementable method"

In response, the applicant is referred to at least col.17, line 41 to col.19, line 67 where Ohmori discloses where the CPU 20 (computing means) is performing the edit-processing function, using a computing-executable means. Examiner reads "computer-implementable method" as a method that can be implemented by using a computing means, which Ohmori discloses in CPU 20.

The applicant's arguments are not persuasive. The rejections are, therefore, maintained.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Onuaku whose telephone number is 571-272-7379. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


COO

6/5/07).



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